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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,398	03/30/2004	Seth Goldberg	GBAND-0003	1750
23599	7590	05/05/2006	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			HENDERSON, MARK T	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/812,398

Applicant(s)

GOLDBERG ET AL.

Examiner

Mark T. Henderson

Art Unit

3722

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 7-12.
Claim(s) objected to: 3-6.
Claim(s) rejected: 1 and 2.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.


MONICA CARTER
SUPERVISORY PATENT EXAMINER

Continuation of 13. Other: In regards to applicant's argument that the Alden reference does not disclose a "wing", the examiner submits that Alden does indeed disclose "a wing having flanges folding to form a tube" in its broadest interpretation, since applicant has not disclosed the structural limitations of a "wing" in detail to overcome the the Alden reference.

Continuation of 13. Other: In regards to applicant's argument that the Alden reference does not disclose a "wing", the examiner submits that Alden does indeed disclose "a wing having flanges folding to form a tube" in its broadest interpretation, since applicant has not disclosed the structural limitations of a "wing" in detail to overcome the Alden reference.

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§Appl. No. 10/812,398
Amdt. dated April 25, 2006
Reply to Office Action of, March 8, 2006

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claim 1 (Currently Amended) A bookmark comprising:

an elastic band having a selected width between two edges and a selected thickness, the elastic band being expandable from a relaxed condition to a stretched condition when placed over a page of a book and over an outside cover of the book;

a slider mounted on the elastic band, the slider having an outer surface facing away from the elastic band and an inner surface facing toward the elastic band;

an image support area on the outer surface of the slider, the image support area having a width greater than the width of the elastic band and having a display surface with an image thereon;

first and second wings extending from the display surface, the first and second wings having flanges thereon which are folded to form first and second tubes for receiving the elastic band therethrough with the elastic band being exposed between the first and second tubes for direct contact with a cover of a book with which the bookmark is used, and

first and second gaps in the first and second tubes, the gaps being between opposed edges of the flanges folded to form the first and second tubes, the gaps each having a width sufficiently large to receive at least one of the edges of the elastic band therethrough when the elastic band is stretched.

Claim 2 (Previously Presented) The bookmark of claim 1 wherein the image support area of the slider has a sticker adhered thereto, the sticker having an image on a front surface thereof and

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adhesive on the inner surface thereof, wherein the sticker is secured by the adhesive to a display surface on the image support area.

Claim 3 (Cancelled)

Claim 4 (Currently Amended) The bookmark of claim 2 ~~3~~ wherein the display surface is circular and the sticker is circular.

Claim 5 (Previously Presented) The bookmark of claim 4 wherein the tubes have internal edges and external edges, the internal edges being spaced from one another by the diameter of the display surface wherein the band is exposed as the band extends beneath the display surface.

Claim 6 (Original) The bookmark of claim 5 wherein when the elastic band is in the relaxed condition it frictionally engages with the inner surfaces of the tubes and the edges of the tubes with a higher frictional force than occurs when the band is relaxed.

Claim 7 (Previously Presented) A bookmark comprising:

an elastic band having a selected width between two edges and a selected thickness, the elastic band being expandable from a relaxed condition to a stretched condition when placed over a page of a book and over an outside cover of the book;

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a slider mounted on the elastic band, the slider having an outer surface facing away from the elastic band and an inner surface facing toward the elastic band, the outer surface having a rim portion;

an indented display surface on the outer surface of the slider defined by the rim portion, the indented display surface having a width greater than the width of the elastic band;

a sticker adhered to the indented display surface with the rim portion extending around the sticker, the sticker having an image on a front surface thereof and adhesive on a back surface thereof wherein the sticker is secured by the adhesive to the indented display surface;

first and second wings extending from the indented display surface, the first and second wings having flanges thereon which are folded to form first and second tubes for receiving the elastic band therethrough with the elastic band being exposed between the first and second tubes for direct contact with a cover of a book with which the bookmark is used, and

first and second gaps in the first and second tubes, the gaps being between opposed edges of the flanges folded to form the first and second tubes, the gaps each having a width sufficiently large to receive at least one of the edges of the elastic band therethrough when the elastic band is stretched.

Claim 8 (Previously Presented) The bookmark of claim 7 wherein the indented display surface is circular and the sticker is circular.

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Claim 9 (Previously Presented) The bookmark of claim 8 wherein the tubes have internal edges and external edges, the internal edges being spaced from one another by the width of the indented display surface wherein the band is exposed as the band extends beneath the indented display surface.

Claim 10 (Previously Presented) The bookmark of claim 9 wherein when the elastic band is in the relaxed condition it frictionally engages with the inner surfaces of the tubes and the edges of the tubes with a higher frictional force than occurs when the band is relaxed.

Claim 11 (Previously Presented) The bookmark of claim 7 wherein the tubes have internal edges and external edges, the internal edges being spaced from one another by the width of the indented display surface wherein the band is exposed as the band extends beneath the indented display surface.

Claim 12 (Previously Presented) The bookmark of claim 11 wherein the tubes have internal edges and external edges, the internal edges being spaced from one another by the width of the indented display surface wherein the band is exposed as the band extends beneath the indented display surface.